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[Title page]

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THE STUDY OF NATIVE COURT RECORDS AS A METHOD OF ETHNOLOGICAL INQUIRY

R. DE Z. HALL

217 WHEREVER native courts have been established and maintain records of their proceedings, there is available a mass of material concerning native law and custom which, properly regarded, may be of great value to the ethnographer as well as to the administrator. In Tanganyika Territory, from one portion of which the material for the present paper is derived, the making of elaborate records of evidence and judgements is deprecated at the present stage of development, as likely to interfere with the smooth working of the courts. A minimum is required of the names of parties, a brief statement of the subject-matter, and a short judgement signed by the holder of the court, be he chief, headman, or chairman of a council. Under such
121 circumstances, a study of records will show, at the least, the types of
217 social maladjustment which bring people to court, with the relative frequency of different kinds of case: the manner in which different types of case are viewed by the court, whether as offences against society or as affecting only families or individuals: and probably some general indication of the tone of the society. From this type of record there will be an upward range to the most valuable of all for the student, those containing a précis of evidence and a full reasoned judgement.

Whatever the amount of material available, it can only provide a limited picture of native law. In most, possibly all, areas, large numbers of disputes never reach the courts at all, but are dealt with in family council or by village elders. Further, the courts are only resorted to when disequilibrium has come about, and it can seldom be safe to argue the positive from the negative. Nevertheless, generalizations should emerge, and even where they do not, lines of inquiry should be indicated and facts brought to light and explained, which might otherwise have remained obscured or not understood. Most important, it is likely that evidence of change will be found, either clearly stated or in the form of indications which will offer material for further study.

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An instance which shows a number of these possibilities comes from the court book of Bugufi, a chiefdom in the north-west of Tanganyika Territory. A custom which might or might not be noted by the ethnographer—something must escape the most meticulous of observers, and this one is not recorded by Meyer for the Barundi, of whom the people of Bugufi are ethnologically part—is the right of the chief to pasture his cattle among the millet-stalks after the harvest, before the peasant may put in his own cattle or any which he is herding for some one else. The court book records eight peasants coming to court to complain against a Tusi who has driven off their cattle. The Tusi replies that the men had pastured their cattle in their millet before the chief had had access. Asked by the court whether he was instructed to drive off the cattle, the Tusi replies that he acted as he was bound to do in accordance with ancient custom and his obligations to the chief. New concepts have, however, found their way into the court, which gives judgement for the plaintiffs on the grounds that the land and the cattle were theirs. This case is exceptional in the wealth of statement and suggestion which it offers, but there are many others helpful in lesser degree.

The value of native court records in this way was brought home to me while stationed in this area, Bugufi, during the years 1929–31, when I went through the available material with a view to seeing what were the normal causes of litigation and getting a general idea of the law administered. Starting with the year 1924, the series was examined up to the end of 1930. For these seven years, 850 cases were found where judgement issued, there being a further 225 which had been settled out of court or dismissed for want of prosecution or by reason of limitation. Of these 850 cases, almost one-quarter concerned contracts where cattle were involved, nearly one-sixth were marital cases, and another sixth were over administrative matters, including offences against the Native Authority Ordinance: only one-seventh were of offences against person and property, and the remainder concerned debts, land, inheritance, damage to property and a few miscellaneous matters.

The fullest records were those of the numerous marital cases, and these have been fully collated with a view to giving an idea of how much information can be gleaned and what gaps remain, and what

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suggestions there are of the effect of latter-day conceptions in superimposing themselves upon and modifying primitive law. Before going on to this, it should be added (what does not appear from the record) first, that the society of Bugufi is symbiotic, with a pastoral Tusi aristocracy, headed by a chief, dominating a semi-servile Hutu agricultural population, who largely outnumber the Tusi: secondly, that there have in Bugufi been strong forces making for change, quite apart from European administrative control. To go into these changes in detail is quite outside the scope of the present paper. It may be briefly mentioned, however, that the relative status of Tusi and Hutu is in process of rapid alteration, owing to the opportunities afforded to the Hutu under modern conditions of acquiring independent wealth, both through their labour (chiefly in Uganda) and latterly by the establishment in Bugufi of an economic crop, coffee. This change has meant maladjustment of the tribal structure. The chief sees in the economic independence of the Hutu an encroachment on his rights: and the Hutu regard the assertion of those rights as oppression. This conflict, together with the mental immaturity of the chief and the distance of the chiefdom—four days' march—from an administrative station, made it necessary for the government to establish a check in the form of a 'Native Adviser'. This system continued until early 1930, by which time an administrative station had been opened near the chief's head-quarters, and, he having shown signs of development, it was felt that an opportunity should be afforded the chief of ruling his country without the restriction of an adviser who was really a controller most of the time. These advisers, three in all, were alien to Bugufi. The first came from Bukoba, on Lake Victoria, where he later became town headman: the second was of Arab descent, having come from Urundi to live in Bugufi, where he had been settled for many years and enjoyed considerable respect: the last, a native of really fine character, who made every effort to train the chief for his work, was a Muziba from Bukoba District. All of them were charged with the dispensing of justice according to native law and custom—subject to altered concepts of crime, already imposed by the European régime, and to a general instruction to curb the oppressiveness of the chief, an instruction the interpretation of which might depend partly on the system of native law under which the adviser had been brought

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up, partly on the personality of the administrative officer of the day, 645
and partly on his own judgement. In any event, conflict with the 648
indigenous system at some points was to be expected, together with permanent modifications to give expression to the alteration of the status of the Hutu.

THE SYSTEM OF MARRIAGE IN BUGUFI

(*as disclosed by Native Court records*)

The normal precedent to marriage is formal betrothal, which must 584
be effected by members of a woman's family, and a contract which she makes herself or through unauthorized persons is void.

Instances: A girl goes to a neighbour, who takes her to the man of her 584
choice and offers her in marriage, the offer being accepted and bride- 684
wealth being paid. Her father is sued for refusing to give the girl in marriage and wins the case, the neighbour who received the bride-wealth being ordered to refund it.

A man sues another for seducing his sister. The defence is that he and she agreed to marry. The Court finds that there could be no agreement since there were no witnesses of any kind, much less the woman's mother or brother who ought to have been present.

But there is a case of this rule being overridden by a wealthy man.

A man, brought to Court by a woman's guardian for seducing her, says that he wishes to marry her and considered himself wealthy enough to dispense with the usual preliminaries, and in any case did not know who her relatives were. He is fined, but is permitted to pay bride-wealth and marry the woman. The Court adds that the fine would have been larger had not the woman expressed her desire to marry the man.

The neighbour cited above who acted as the woman's agent had only to refund the bride-wealth which he had received: but in another case a man was imprisoned for enticing away a woman and giving her in marriage without her father's knowledge or consent.

Betrothal is only binding for a reasonable time.

Instances: A woman having been betrothed and the man having delayed to come to complete the marriage, her father marries her off to another man and refunds the bride-wealth.

A woman is betrothed to one man and married off to another. It is found that the former has been looking for bride-wealth for eight years, and he is held to have no justification for claiming the woman.

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584 In certain circumstances a woman is at the disposal of the Chief or his headmen and not her relatives. Thus, in one case the Chief had brought a girl up and successfully sued her father for giving her in marriage: there is no record of why the girl was in the Chief's hands. In another, it is specifically stated that a man having died with only female issue, the daughters were taken over by the village headman: in a suit brought by her relatives, claiming the right to give her in marriage, they were successful, though it is stated in the record that this was contrary to ancient tribal custom.

583 686 Bride-wealth is normally handed over before marriage, but not necessarily. Instances of exceptions are:

> A man is sued for payment of bride-wealth by his wife's brother, who has seen that his sister is being ill-treated. The man cannot pay, so the Court dissolves the marriage and returns the woman to her brother.
>
> A woman's relatives are sued for return of bride-wealth, she having run away: and it is found in evidence that, in fact, it has never been paid.

If it has not been paid, there are limits to the right of the woman's relatives to sue for it.

> A man has married a woman and had two male children by her and then sent her home. Her relatives claim that he had no justification for sending her away and ask that he be made to take her back and to pay bride-wealth, which he had not previously done. The Court finds that the suit should have been brought at least ten years before, and the relatives lose.

It is not held exclusively by the senior member of the woman's family. Thus, in a case where two sisters were married, their elder brother (their father being dead) retained both payments, but the Court ordered that he should hold only one and his younger brother the other. There is nothing to show whether in general the bride-wealth is held by an individual or shared out among several members of a family.

581 583 There are indications that marriage is regarded by a woman's relatives as a commercial transaction to some extent.

> *Instances*: A woman's brother successfully asserts his right to sell a cow received as bride-wealth, stating, as his justification, that exchange of

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the woman for the cow completed the transaction between him and the husband. 581 583

A man promises his daughter to another man in marriage in consideration of the annulment of a debt of 10*s.* and 6 hoes.

And, in two cases, suits arise because a woman, having returned to her parents ill, has been sent to a doctor for treatment: payment has not been forthcoming, and the woman has been handed over to the doctor. (In one case he has married her himself, in the other he has given her in marriage and kept the resulting bride-wealth in lieu of his fee.)

But this is not necessarily the view of the woman herself. In one of several cases where a woman has returned to her relatives, consequent on the removal of the bride-wealth by her husband, she states that she went away on account of the slight put upon her.

In a considerable proportion of the marital causes brought before the Court, the record mentions the amount of bride-wealth involved, and these display a remarkable range of variation, both in the nature of the property handed over and in the value. The categories comprise cattle, goats, cash, hoes, beer, cloth, and copper bracelets: and the value ranges from 9 cows to 1 hoe. Tabulating these in rough order of value, according to equivalents disclosed by the records themselves (1 cow is worth 2 bulls and is worth more than a calf: a bull worth 10*s.* or 11*s.* and also equalling 2 goats and 2*s.*: a goat worth 4*s.* or 5*s.*: a hoe equalling a pot of beer and also 1*s.*), the result is: 583 435

9 cows.
3 cows (twice).
2 cows, 3 hoes, 3 pots of beer.
2 cows (three times).
9 hoes, 46 pots of beer.
1 cow, 23 pots of beer, 4*s.*
1 cow, 1 calf, 3 hoes.
1 cow, 3 hoes, 18 pots of beer.
1 cow, 15 hoes.
20*s.*, 20 pots of beer.
8 goats, 1 copper bracelet.
1 cow, 7 hoes, 7 pots of beer.
1 cow, 11 hoes, 1 pot of beer.
1 cow, 5 hoes, 5 pots of beer.
1 cow, 1 bull.
1 cow, 2 hoes, 6 pots of beer.
26 hoes (claimed, though only 8 admitted).
7 hoes, 27 pots of beer.
11*s.*, 14 pots of beer.
1 bull, 3*s.*, 2 pots of beer.
10*s.*, 6 pots of beer.
1 goat, 6 hoes, 2*s.*
13 hoes.
8 hoes, 5 pots of beer.
12 hoes.
8*s.*, cloth value 3*s.*
10*s.*
10 hoes.
9 hoes.
4 hoes, 5 pots of beer.
1 goat, 2 hoes, 1 pot of beer.

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1 cow, 7 hoes (twice).	7 hoes.
1 cow, 6 hoes, 1 pot of beer.	4 hoes, 3 pots of beer.
1 cow, 4 hoes, 3 pots of beer.	1 hoe, 5 pots of beer.
1 cow, 6 hoes (twice).	2 hoes, 3/50 worth of cloth.
1 cow, 5 hoes (four times).	5 hoes (twice).
1 cow, 5 pots of beer.	4 hoes (twice).
1 cow (thirteen times).	1 hoe.

The analysis of this list reveals 42 cases where bride-wealth is paid in cattle, alone or accompanied by hoes, beer, cash, or a combination of these latter. Thence, with a few exceptions, there is an abrupt drop to a standard where hoes alone or with beer are paid in bride-wealth, three of the exceptions being where cash is paid with beer: there are 27 cases in this second main class. The quantitative relation of the number of bride-wealths in media other than cattle to those where cattle are a constituent is unlikely to be of importance. There is a standard fee of 2*s*. in marital causes in the Native Court, and a man who can only command sufficient property to pay a bride-wealth of a few hoes is not to be expected readily to raise a court fee.

A summary of the analysis shows:

20	cases	of	payment	in	cattle alone.
10	„	„	of cattle	with	hoes.
1	„	„	„	„	beer.
8	„	„	„	„	hoes and beer.
2	„	„	„	„	beer and cash.

11	cases	of	payment in hoes alone.
6	„	„	of hoes with beer.
3	„	„	of cash with beer.
1	„	„	of cash with cloth.
1	„	„	of cash alone.
1	„	„	of hoes and cloth.
3	„	„	of goats, once with a bracelet, once with hoes and beer, and once with hoes and cash.

There are evident norms of payment in cattle alone and of payment in hoes alone, but further investigation is needed to discover how far these correspond with the symbiotic social system of pastoral Tusi and agricultural Hutu. A wide field of suggestion is opened up. For instance, are there any cases of wealthy Hutu paying bride-wealth in

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cattle alone? and if so, are they marrying into Tusi families, bridging 583
the social gulf? or are they only marrying into other rich Hutu families, adopting the Tusi standard of wealth? And what is the meaning of the mixed payments in cattle and hoes? Are Tusi marrying into Hutu families, and being expected to utilize the Hutu standard as well as their own? or are wealthy Hutu, again, adopting Tusi standards? It would seem to be almost certain that change of some form or another is going on. The records are not helpful, save for one case where payments of the unusual number of three cows are mentioned as being as in respect of members of the Chief's clan: and another, where a woman's father, suing for payment of bride-wealth of a cow, finds that no cow is available and accepts, *faute de mieux*, 11 hoes—this must surely be a Hutu.

There are seven instances where payment in cash is a constituent of 436
the bride-wealth and one where cash alone is involved. This cash 583
element only appears in the years 1928–30, the last of the series, and is exactly paralleled in the suits for recovery of debts, where hoes are the normal subject-matter in the years 1924–6, are being replaced by cash in 1927, and virtually disappear in the later years. In five of the seven cases it is the hoe which has been replaced by cash in the bride-wealth payment, and that this change may be making marriage more of a commercial transaction, even if it was not before, is instanced by the case already cited, where a father was ready to part with his daughter in return for the extinguishment of a debt of 10*s*. and 6 pots of beer. And one would like to know whether the cattle standard has also been attacked in the case where the large amount of 20*s*. appears.

The function of the perishable article, beer, as an element in bride-wealth, does not appear from the records. There is nothing to show whether its appearance in only one-third of the cases reviewed means that it has not been a constituent on other occasions, and if so, why it is in issue sometimes and not at other times.

Bride-wealth in the possession of a woman's family need not neces- 583
sarily be maintained intact. 691

Instances: Where a woman's brother has lost a cow paid in bride-wealth and is brought to Court by her husband, the Court makes no order: it finds that the woman is still with her husband, that no grounds for

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583 691 divorce have arisen between the married pair, and that there is therefore no cause of action.

And, a case already cited, a man hears that his wife's brother has sold the cow paid in bride-wealth, and thereupon drives away his wife and sues for his bride-wealth. The sale is admitted, but the plaintiff fails in his suit, as no grounds for divorce have arisen between his wife and himself: he is therefore to take his wife back.

586 691 On the termination of a marriage, bride-wealth, with rare exceptions, is returnable in full: and where cattle are involved, the increase is also to be returned (three cases in the records): but a man who sued for three bulls, the progeny of a cow paid in bride-wealth, was unsuccessful when it was established that the bulls were dead.

Circumstances under which the bride-wealth is not returnable in full are:

(*a*) when the wife has borne children or is pregnant at the time of the dissolution of marriage.

Instances: A claim is made for the repayment of bride-wealth of 4 hoes. Three only are awarded by the Court, as a child has been born of the marriage.

In a claim for repayment of bride-wealth of a cow, 7 hoes, 7 pots of beer and some fat, the Court only awards the cow and the hoes, as the woman was pregnant at the time of divorce.

(*b*) when the wife dies in pregnancy.

In such a case, a woman's father was sued for the return of bride-wealth, but pleaded, to the satisfaction of the Court, that her death in pregnancy amounted to her having been killed by her husband. No bride-wealth was to be repaid.

(*c*) when the wife dies after an illness, unless she has come to her husband ill or otherwise unsound at the time of marriage, or has returned home without cause given by him, and there fallen ill and died.

Instances: A widower sues for the return of his bride-wealth on the ground that the woman was unsound when he married her. Her father shows to the satisfaction of the Court that the husband did not disclose the defect at the time of marriage, and that the woman died at her husband's home: and the widower loses and is further ordered to return the clothes and ornaments of his dead wife to her father.

A man marries but does not build a home and remains at his brother-in-law's. Later, he quarrels with the brother-in-law and removes, with his wife. She falls ill and goes home to her brother, and there dies. The Court decides that her husband has no justification for reclaiming

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his bride-wealth, since his brother-in-law did not take her away, she went home when ill because she had no home. In any case, the Court adds, bride-wealth is not to be returned as a matter of course just because a woman dies. 586 691

In a third case a woman has died after bearing one child; the circumstances of death are not stated. The widower, reclaiming his bride-wealth, a cow, which by increase has become 8 head, in a village meeting, has been awarded 5 head and the woman's father 3. The widower has later taken one of his father-in-law's share to provide milk for the child, and now claims his right to retain it and receive the balance. The Court confirms the decision of the village meeting, on the grounds that although the widower has lost a wife, her father has lost a child.

(*d*) when a husband drives away his wife without due cause, or abandons her.

Instances: A man takes his cow, paid as bride-wealth, away, then drives his wife out of the house, and now reclaims the balance, 11 hoes. He is adjudged to have forfeited these.

A man reclaims 7 hoes, balance of bride-wealth of a cow and 7 hoes, from his brother-in-law, who has taken the woman when ill to a doctor and has not returned her. The husband is found to have seized the opportunity to take back his cow and to have abandoned his wife, and he is held to have no claim to his hoes.

A man claims 6 cows, the increase of one, paid as bride-wealth. It is established that after the woman had borne him 3 children, he emigrated, leaving her, and that she is still unmarried and willing to return to him. He admits in cross-examination that he wants the cattle, not his wife—and loses both.

Bride-wealth is also returnable when a woman, left a widow, declines to remain under the custody of her late husband's heirs, and goes to her relatives. But custody must be claimed at the time of the husband's death: in a case where this was not done, and the woman had gone away and remarried, the new marriage was allowed to stand, subject to the proviso that the child of the marriage would be a member of the family of the first husband when it grew up, if it desired. In one case, a man waives his claim to the bride-wealth in respect of the widow of his dead son, she having returned to her relatives. 587 768 851

On the termination of a marriage, the custody of children is always the right of the husband. If he dies, the right passes to his heirs: there 586 768 851

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586 851 768 is, however, an exception recorded, where, on a man dying leaving only female children, these were taken charge of by the village headman. The right to custody sometimes involves investigation of paternity, the nature of which is fully understood.

[691] *Instances*: A man sues his wife's new husband, after divorce, for payment of bride-wealth or else for custody of a child of which he claims she was pregnant when she left him. A count of months establishes the paternity of the new husband.

The son of a man deceased sues the man to whom the widow has gone, she then having a four-months' old child, for the first offspring of the new union as well as the other child, on the grounds that she was pregnant at the time of her husband's death. The Court finds that no woman has ever been heard of suckling a four months' child and pregnant of another, and therefore awards the eldest child only.

In a third case, it is necessary to establish paternity as between three possible fathers.

[862] An unweaned child will remain with its mother till weaned. If not claimed then, her relatives or new husband may claim recompense for the cost of bringing the child up: in one case a goat is to be paid, in another, half the milk of a cow, and 3 hoes.

768 428 As a corollary to the right to the custody of a child, the heir of a man who has died has the right to the bride-wealth in respect of a girl-child, when the widow has returned to her relatives and the child has not been claimed before she reaches marriageable age, subject to a deduction for the cost of bringing her up.

[691] *Instances*: In the case just cited, the milk and three hoes represented a deduction from the total bride-wealth of a cow and five hoes.

In another case, the woman's relations resist such a claim on the ground that when she left the heir, her son, and went home, he claimed only her clothes but not the child. Their case fails.

In one case, a man lost his reason, and his wife went off to another man with her three children, of whom two were females. This other man married off one child and betrothed the other. Both contracts [681] were dissolved, the man was fined and in addition was made to refund to their father 14 hoes which had been handed over for maintenance of the children.

586 Dissolution of marriage is found to take place on numerous grounds. The records disclose causes of offence by the husband as follows:

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Impotence.
Loss of reason.
Failure to clothe the wife.
Failure to cultivate.
Failure to provide food.
Wandering habits.
Measuring out food to the wife (instead of giving her free access to the store).
Refusal to eat food.
Accusation of witchcraft.
Continued insult and beating.
Removal of bride-wealth from the relations-in-law.

There are three marital causes where dissolution is threatened, one, because the cow paid in bride-wealth has died, in another because it has gone blind, and in a third because it has borne twin-calves: such a cow is taboo for this purpose, presumably on account of the danger of sympathetic influence on the wife—the advent of twins is not hailed with joy, witness a case where a cow is in issue, the fee of a doctor for removing the curse of twins. [845]

Grounds for divorce of the wife include:

Refusal to work and to cook.
Continued sickness.
Desertion, subdivided into cases where she has gone to her relations, and where she has gone off to another man.

Adultery as such is never cited as a reason for divorce. There is but one case of adultery on record in the Court, the offending man being punished and the woman returned to her husband. [837]

It is but rarely that a woman or her relatives come to Court to sue for a divorce. Normally, if she feels that she has reason for dissatisfaction, she returns to the home of her father or brother, whose duty it is to endeavour to reach an amicable settlement. If this is not done, she remains and abides the issue, or, not infrequently, is married to another man, this precipitating proceedings by the husband. But in a fair number of instances, she goes straight off to another man. [691]

The Court will try to compose matters and to maintain the marriage wherever possible.

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Instances: A runaway wife, sued by her husband, complains that he does not give her clothes and is stingy with food to the extent of measuring

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it out. The Court awards him his wife on condition of his paying her two barkcloths for clothing, and a sleeping mat.

A man has removed his two cows, paid in bride-wealth, and his wife has gone away and has been married off elsewhere. He may recover his wife by immediate payment of the cows, when the second union will be declared invalid.

A woman has left her husband on account of his cruelty, and her father has married her again. She agrees to return to her husband if he will guarantee to clothe her.

The cases of a husband resuming possession of cattle paid in bride-wealth are fairly frequent, but the marriage is never *ipso facto* dissolved on this account: the position would rather seem to be that the relation of the man and the woman reverts to one of betrothal.

The Court discourages recourse to it when it appears that full recourse to conciliation has not been made or that action is otherwise premature.

Instances: A wife admits running away, and her father admits marrying her to another man. The husband gets his bride-wealth back, but loses his costs because he did not try to arrange matters with his father-in-law before coming to Court.

A woman's father has returned the cow paid in bride-wealth, as being of poor quality, and his daughter has left her husband on this account. He sues for payment of a sound cow and wins, but costs are given against him for his manner of action.

A man sues his father-in-law for taking his daughter away. The reply is that she came home ill, and stayed, with his concurrence, because her husband gave her no clothes. This the husband admits, but costs are given against the father because he took no steps to bring about a reconciliation.

A man claims his wife from his mother-in-law, to whom she has gone. He wins, but loses his costs because he did not ask his mother-in-law for his wife before bringing a case.

A man sues his mother-in-law for marrying off his wife to another man while he was absent in Uganda. It is found that she had merely returned home to await his return, and he loses his costs.

It has been mentioned above that a husband who tries to get rid of his wife without sufficient cause is liable to forfeit part of his bride-wealth. Nor does the runaway wife who cannot back her action by sufficient reason for discontent get any sympathy from the Court.

Instances: A wife has left her husband and maintains that she went because

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her husband gave her no clothes. She is ordered to return to him, as she had made no complaint to her father. 586

A wife who went back to her relatives because her husband walked out of the house, saying it smelt, is ordered to return to him. 691

So with a wife who left her husband on account of his deafness.

And another who said that her husband was impotent, but could not satisfy the Court of this.

Another runaway wife is returned to her husband and told to sue before the Court at a later date if she has any concrete reason for disagreement with him, such as his failure to produce clothes or to work on the land.

The seducer of an unmarried woman is always punished and may have to pay compensation to her father. In one such case compensation is ordered on account of the girl being 'destroyed'. In the case, however, of the man who has enticed away a married woman or has willingly accepted a wife who has deserted her husband, there is no such uniformity of practice, and much depends on the circumstances of the case. Usually the man is punished or at any rate cautioned. 684

Instances: A wife leaves her husband and offers herself to another man. She is returned, much against her will, to her husband, and the third party is fined and informed that he will be imprisoned if he accepts the woman again.

An enticer offers the defence that he is willing to pay bride-wealth to the woman's father. She is returned to her husband, whom the enticer, as well as being fined, has to compensate.

A wife, having run away, is reclaimed by her husband, and the man to whom she has gone is punished.

But in four cases, he is only cautioned.

Sometimes the woman is returned without her unlawful partner being punished.

Instance: A runaway wife, pregnant by another man, is returned to her husband, in spite of her alleging against him that he deprives her of food and clothes, is always wandering, and has accused her of witchcraft. (The Court was probably sceptical of the veracity of so formidable an indictment.) The child, when born, is to belong to the original husband, but there is no further mention of the other man.

On other occasions, presumably when the husband has been at fault, the second partner is allowed to refund the amount of his bride-wealth and to retain the woman as his lawful wife. [586] [587]

8: Hall G-5 (1929-31) 1938 FO42 Rundi FO42

586 691 587 937 *Instances*: A man has beaten his wife and driven away her relatives when they came to see him. She leaves him for another man, who is ordered to refund the bride-wealth.

A wife has left her husband and is now pregnant by another man. The husband will be satisfied either with the child or his bride-wealth. The paternity of the second man is established, and bride-wealth is to be paid over.

In several cases a woman's relatives are found to have married her to another man in her husband's absence, or after she has left him and returned home. Here again circumstances determine whether the first or the second union shall be dissolved. In considering these, the voice of the woman is not disregarded, and in one case, after judgement has issued in the original husband's favour, it is amended there and then owing to his wife's refusal to return to him.

586 661 Several marriages are found to be broken up on account of the Chief's seizing cattle paid in bride-wealth.

Instances: A wife goes off to her father's because the Chief has taken the bride-wealth cow.

A man from Urundi pays a cow in bride-wealth, which is seized by the Chief in order to recoup himself after some of his cattle have been stolen by Urundi natives: and the woman's father therefore takes her back.

In a third case, this right or propensity is deliberately made use of by a husband who wishes to shuffle off his wife. He arranges for the Chief to seize the bride-wealth cow with its two calves, and then sends his wife home. But the stratagem fails.

595 578 586 Finally, the existence of polygyny is to be referred to. That it may lead to disharmony in the home appears from two cases, in the former of which the first wife is so aggravated by her husband taking another spouse that she has assaulted him, while in the other a husband is brought to Court for tying up his second wife on suspicion of her having bewitched the first one, with a threat that he would kill her if the first one died. And a third husband finds himself heavily fined for being influenced by the predilections of his first wife. He had paid bride-wealth for a second: the first wife did not approve of the newcomer: her sister coming soon afterwards with a gift of beer, he kept her instead; she had already been promised in marriage, however, and he has to face an indignant betrothed as well as her father, in Court.

R. DE Z. HALL.